



GENERAL ASSEMBLY

COMMONWEALTH OF KENTUCKY

2011 REGULAR SESSION

HOUSE BILL NO. 478

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The following bill was reported to the Senate from the House and ordered to be printed.

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ELAINE N. WALKER
SECRETARY OF STATE
COMMONWEALTH OF KENTUCKY
BY R. Allen

1 AN ACT relating to budget memoranda.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. KRS 13A.222 is amended to read as follows:

4 (1) In a new administrative regulation, there shall be no underlining or bracketing.

5 (2) In an amendment to an administrative regulation, the new words shall precede the
6 deleted words. Exceptions may be permitted by the regulations compiler. The
7 administrative body shall:

8 (a) Underline all new words; and

9 (b) Place the deleted words in brackets and strike through these words.

10 (3) (a) An administrative regulation shall not be amended by reference to a section
11 only. An amendment shall contain the full text of the administrative regulation
12 being amended.

13 (b) A section of an administrative regulation shall not be reserved for future use.

14 (4) In drafting administrative regulations, the administrative body shall comply with the
15 following:

16 (a) The administrative body shall use plain and unambiguous words that are
17 easily understood by laymen. The administrative body shall avoid ambiguous,
18 indefinite, or superfluous words and phrases;

19 (b) A duty, obligation, or prohibition shall be expressed by "shall" or "shall not."
20 "Should," "could," or "must" shall not be used. The future tense shall not be
21 expressed by the word "shall." A discretionary power shall be expressed by
22 "may;"

23 (c) The words "said," "aforesaid," "hereinabove," "hereinafter,"
24 "beforementioned," "whatsoever," or similar words of reference or emphasis
25 shall not be used. Where an article may be used, the administrative body shall
26 not use the word "such." It shall not use the expression "and/or" and shall not
27 separate alternatives with a slash. It shall not use contractions. When a number

1 of items are all mandatory, the word "and" shall be used. When all of a
 2 number of items are not mandatory, the word "or" shall be used;

3 (d) Certain words are defined in the Kentucky Revised Statutes. Where
 4 applicable, these definitions shall be used. Definitions appearing in the
 5 Kentucky Revised Statutes shall not be duplicated in a proposed
 6 administrative regulation. A reference shall be made to the chapters and
 7 sections of the Kentucky Revised Statutes in which the definitions appear;

8 (e) If definitions are used, they shall be placed in alphabetical order in the first
 9 section of an administrative regulation or in a separate administrative
 10 regulation. The section or administrative regulation shall be titled
 11 "Definitions." If definitions are placed in the first section of an administrative
 12 regulation, the definitions shall govern only the terms in that administrative
 13 regulation. If definitions are placed in a separate administrative regulation,
 14 that administrative regulation shall be the first administrative regulation of the
 15 specific chapter of the Kentucky Administrative Regulations Service to which
 16 the definitions apply. The title of the administrative regulation shall also
 17 contain the number of the chapter of the Kentucky Administrative Regulations
 18 Service to which the definitions apply. In the text of an administrative
 19 regulation, the word defined in the definitions section, rather than the
 20 definition, shall be used. Definitions shall be used only:

- 21 1. When a word is used in a sense other than its dictionary meaning, or is
- 22 used in the sense of one of several dictionary meanings;
- 23 2. To avoid repetition of a phrase; or
- 24 3. To limit or extend the provisions of an administrative regulation;

25 (f) If a word has the same meaning as a phrase, the word shall be used;

26 (g) The present tense and the indicative mood shall be used. Conditions precedent
 27 shall be stated in the perfect tense if their happening is required to be

1 completed;

2 (h) The same arrangement and form of expression shall be used throughout an
3 administrative regulation, unless the meaning requires variations;

4 (i) "If" or "except" shall be used rather than "provided that" or "provided,
5 however." "If" shall be used to express conditions, rather than the words
6 "when" or "where;"

7 (j) A word importing the masculine gender may extend to females. A word
8 importing the singular number may extend to several persons or things;

9 (k) Any reference in an administrative regulation to "medical doctor," "M.D.," or
10 "physician" shall be deemed to include a doctor of osteopathy or D.O., unless
11 either of those terms is specifically excluded.

12 (l) An administrative body shall use the phrases specified in this subsection:

13	Do Not Use:	Use:
14	And/or	"and" for a conjunctive
15		"or" for a disjunctive
16	Any and all	either word
17	As provided in this	
18	administrative regulation	----
19	At the time	when
20	And the same hereby is	is
21	Either directly or indirectly	----
22	Except where otherwise	State specific
23	provided	exemption.
24	Final and conclusive	final
25	Full force and effect	force or effect
26	In the event that; In case	if
27	Is authorized; Is empowered	may

1	Is defined and shall be	
2	construed to mean	means
3	Is hereby required to	shall
4	It shall be lawful	may
5	Latin words	Do not use unless medical or
6		scientific terminology.
7	Null and void and of no effect	void
8	Order and direct	either word
9	Provision of law	law
10	Until such time as	until
11	Whenever	if

12 (m) 1. Unless the authority for an administrative regulation is an appropriation
 13 provision that is not codified in the Kentucky Revised Statutes, the
 14 specific chapter and section number of the Kentucky Revised Statutes
 15 authorizing the promulgation of an administrative regulation shall be
 16 cited.

17 2. a. If an act has not been codified in the Kentucky Revised Statutes at
 18 the time an administrative regulation is promulgated, or if the
 19 authority is any branch budget bill, the citation shall be as follows:

20 "(year) Ky. Acts ch. (chapter number), sec. (section number)."

21 When an act has been codified, the administrative body shall notify
 22 the regulations compiler of the proper citation in writing. Upon
 23 receipt of the written notice, the regulations compiler shall correct
 24 the citation.

25 b. For acts of extraordinary sessions, the citation shall be as follows:

26 "(year) (Extra. Sess.) Ky. Acts ch. (chapter number), sec. (section
 27 number)." If there is more than one (1) extraordinary session of the

1 General Assembly in the year, the citation shall specify the specific
 2 extraordinary session, as follows: "(year) (2d Extra. Sess.) Ky.
 3 Acts ch. (chapter number), sec. (section number)."

4 3. When an act has been codified, the administrative body shall notify the
 5 regulations compiler of the proper citation of the Kentucky Revised
 6 Statutes in writing. Upon receipt of the written notice, the regulations
 7 compiler shall correct the citation.

8 4. ~~{a.}~~ If the statutory authority is an appropriation act, the citation shall
 9 be as follows: "(year) Ky. Acts ch. (chapter number), Part (part and
 10 subpart numbers)."

11 ~~{b. If appropriate, the citation of an appropriation act shall include a~~
 12 ~~citation to the appropriate part of the budget memorandum.}~~

13 5. If the authority is an executive order, the citation shall be as follows:
 14 "EO (year executive order issued)-(number of executive order)."

15 (n) If the statutory authority is a federal law, the citation shall be the:

- 16 1. United States Code (U.S.C.), if it has been codified; or
- 17 2. Public Law (Pub. L.) and official session laws, if it has not been
 18 codified.

19 (o) 1. If the statutory authority is a federal regulation codified in the Code of
 20 Federal Regulations, the citation shall include the title, part, and section
 21 number, as follows: "(title number) C.F.R. (part and section number)."

22 2. a. If the statutory authority is a federal regulation that has not been
 23 codified in the Code of Federal Regulations, the citation shall be to
 24 the Federal Register, as follows: "(volume number) Fed. Reg.
 25 (page number) (effective date of the federal regulation) (section of
 26 Code of Federal Regulations in which it will be codified)."

27 b. When the federal regulation is codified, the citation shall be

1 amended to read as provided by subparagraph 1. of this paragraph.

2 3. a. If the statutory authority is a federal regulation that has been
3 amended, and the amendment is not reflected in the current issue
4 date of the volume of the Code of Federal Regulations in which
5 the federal regulation is codified, the citation shall be to the
6 Federal Register as follows: "(federal regulation that has been
7 amended), (volume number) Fed. Reg. (page number) (effective
8 date of the amendment)."

9 b. When the amendment is codified in the appropriate volume of the
10 Code of Federal Regulations, the citation shall be amended to read
11 as provided by subparagraph 1. of this paragraph.

12 (p) Citations of items in the "RELATES TO" paragraph of an administrative
13 regulation shall comply with paragraphs (m), (n), and (o) of this subsection.

14 (q) An administrative regulation may cite the popular name of a federal or state
15 law if the popular name is accompanied by the citation required by this
16 paragraph.

17 ➔Section 2. KRS 26A.164 is amended to read as follows:

18 (1) There is created a court facility use allowance contingency fund. The fund shall
19 consist of money appropriated to it in the judicial branch budget by the General
20 Assembly. Money in the fund shall not lapse but shall be carried forward to the next
21 fiscal year or biennium.

22 (2) The Court of Justice may agree to increase the budgeted scope of a court project or
23 project pool authorized in a judicial branch budget bill enacted by the General
24 Assembly, and may use the use allowance contingency fund to cover any resulting
25 increase in the budgeted annual use allowance, if and only if:

26 (a) The appropriate unit of government first submits a proposal for the increase to
27 the Court Facilities Standards Committee, and the Court Facilities Standards

1 Committee approves the increase;

2 (b) The annual use allowance for the project or project pool, adjusted for the
3 proposed increase in scope, would not exceed the annual use allowance
4 specified for that project or project pool in the multiyear use allowance
5 schedule set out in the judicial branch budget bill~~[or memorandum]~~ by more
6 than fifteen percent (15%); and

7 (c) The requirements of KRS 26A.166 have been met.

8 ➔Section 3. KRS 26A.166 is amended to read as follows:

9 (1) Before the Court of Justice gives final approval to an increase in the budgeted scope
10 of an authorized project or project pool listed in a judicial branch budget bill which
11 would result in an increased use allowance, the director of the Administrative
12 Office of the Courts shall submit a proposal for the increase to the Capital Projects
13 and Bond Oversight Committee at least fourteen (14) days prior to the committee
14 meeting. The proposal shall include:

15 (a) The multiyear use allowance specified in the judicial branch budget bill~~[or~~
16 ~~memorandum]~~;

17 (b) The proposed increase in the use allowance;

18 (c) The reasons and necessity for the proposed increase;

19 (d) A statement as to whether or how the proposed use of funds conforms with
20 the requirements of the law; and

21 (e) Any other information that the committee requests.

22 (2) Within thirty (30) days after receiving a proposal to increase the use allowance, the
23 Capital Projects and Bond Oversight Committee shall either approve or disapprove
24 the proposal and shall then promptly notify the director of the Administrative office
25 of the Courts of its decision.

26 (3) If the Capital Projects and Bond Oversight Committee disapproves the proposal, the
27 director of the Administrative Office of the Courts shall take one (1) of the

1 following actions and shall notify the committee of its decision in writing within
 2 thirty (30) days of receiving the committee's notice of disapproval:

- 3 (a) Revise the proposal to comply with the committee's objections;
- 4 (b) Cancel and take no further action on the proposal; or
- 5 (c) Determine to implement the proposal over the committee's objection.

6 (4) The Administrative Office of the Courts shall report to the Capital Projects and
 7 Bond Oversight Committee within thirty (30) days of any action taken by the Court
 8 of Justice to approve a scope increase of a project within a pool which would
 9 increase the use allowance for that project.

10 (5) The Capital Projects and Bond Oversight Committee shall maintain records of
 11 proposals, findings, decisions, and actions taken under this section. When
 12 appropriate, the committee shall provide this information to other legislative
 13 committees or to the General Assembly.

14 ➔Section 4. KRS 26A.168 is amended to read as follows:

15 (1) The Administrative Office of the Courts shall provide to the Capital Projects and
 16 Bond Oversight Committee, at the committee's January, April, July, and October
 17 regular meetings, a status report of all incomplete court facilities projects. The
 18 Capital Projects and Bond Oversight Committee shall prescribe data elements for
 19 the quarterly status reports. For each project, the status report shall include:

- 20 (a) The project title;
- 21 (b) The county in which the project is located;
- 22 (c) The scope and use allowance authorized for the project in the judicial branch
 23 budget~~[and budget memorandum]~~, and any increases to the scope or use
 24 allowance under KRS 26A.164;
- 25 (d) The current status of the project;
- 26 (e) Estimated completion date of the project;
- 27 (f) An explanation of any delay or major change in the project, including deletion

1 or modification of project components; and

2 (g) Any other information that the committee requests.

3 (2) On August 1 of each year, the Administrative Office of the Courts shall prepare a
4 financial report on the court facility use allowance contingency fund for the fiscal
5 year ending on June 30 of that year. The report shall include, with explanations,
6 allotments, expenditures, encumbrances, and the available balance.

7 ➔Section 5. KRS 45.031 is amended to read as follows:

8 (1) Any department, board, commission, agency, advisory council, interstate compact,
9 corporate body, or instrumentality of the Commonwealth of Kentucky applying for
10 federal funds, aids, loans, or grants shall file a summary notification of the intended
11 application with the Department for Local Government in accordance with the
12 existing A-95 procedures.

13 (2) When as a condition to receiving federal funds, the Commonwealth of Kentucky is
14 required to match the federal funds, a statement shall be filed with the notice of
15 intent or summary of the application stating:

16 (a) The amount and source of state funds needed for matching purposes;

17 (b) The length of time the matching funds shall be required;

18 (c) The growth of the program;

19 (d) How the program will be evaluated;

20 (e) What action will be necessary should the federal funds be canceled, curtailed,
21 or restricted; and

22 (f) Any other financial and program management data required by the Finance
23 and Administration Cabinet or by law.

24 (3) Any application for federal funds, aids, loans, or grants which will require state
25 matching or replacement funds at the time of application or at any time in the
26 future, must be approved by the secretary of the Finance and Administration
27 Cabinet, the Legislative Research Commission, and the Chief Justice for their

1 respective branches of government or their designated agents prior to its filing with
 2 the appropriate federal agency. Any application for federal funds, aids, loans, or
 3 grants which will require state matching or replacement funds at the time of
 4 application or at any time in the future, when funds have not been appropriated for
 5 that express purpose, must be approved by the General Assembly, if in session.
 6 When the General Assembly is not in session, the application shall be reported to
 7 and reviewed by the Interim Joint Committee on Appropriations and Revenue, as
 8 provided by KRS 48.500~~(3)~~~~(4)~~.

9 (4) When any federal funds, aids, loans, or grants are received by any department,
 10 board, commission or agency of the Commonwealth of Kentucky, a report of the
 11 amount of funds received shall be filed with the Finance and Administration
 12 Cabinet; and this report shall specify the amount of funds which would reimburse
 13 an agency for indirect costs as provided for under OMB Circular A-87.

14 (5) The secretary of the Finance and Administration Cabinet may refuse to issue his
 15 warrant for the disbursement of any state or federal funds from the State Treasury as
 16 the result of any application which is not approved as provided by this section, or in
 17 regard to which the statement or reports required by this section were not filed.

18 (6) The secretary of the Finance and Administration Cabinet shall be responsible for the
 19 orderly administration of this section and for issuing the appropriate guidelines and
 20 regulations from each source of fund used.

21 ➔ Section 6. KRS 45.760 is amended to read as follows:

22 The provisions of any other law notwithstanding:

23 (1) During any biennium the amount allotted, from all sources, for expenditure on any
 24 project in the state capital construction program for that biennium shall not exceed
 25 the estimated cost of the project during that biennium, as shown in any branch
 26 budget bill~~], statutory budget memorandum, and biennial budget report]~~ enacted by
 27 the General Assembly, except as provided in this section and KRS 45.770 and

1 45.780.

2 (2) When the General Assembly disapproves a capital project or item of equipment that
 3 was previously approved, it shall be eliminated as a capital project or major item of
 4 equipment in the Capital Projects Program. General fund moneys appropriated for
 5 that project or item of equipment but not allotted, and general fund moneys allotted
 6 but not expended to the project or equipment account, shall be transferred to the
 7 capital construction and equipment purchase contingency account in the capital
 8 construction fund. Agency or federal funds for a disapproved project or item, that
 9 have been appropriated but unallotted or allotted but unexpended, shall be returned
 10 to the appropriate agency fund. Road fund moneys for a disapproved project or item
 11 that have been appropriated but unallotted or allotted but unexpended, shall be
 12 returned to the Road Fund Surplus Account.

13 (3) Capital projects and major items of equipment disapproved under subsection (2) of
 14 this section shall be terminated.

15 (4) During any biennium, the amount allotted from all sources for expenditure for the
 16 purchase of any major item of equipment shall not exceed the estimated cost of the
 17 item as shown in any branch budget bill~~[, statutory budget memorandum, and~~
 18 ~~biennial budget report]~~ enacted by the General Assembly and authorizing the
 19 purchase, except as provided in subsections (5) and (6) of this section and in KRS
 20 45.770 and 45.780.

21 (5) A major item of equipment to be used for medical, scientific, or research purposes,
 22 excluding computer equipment and aircraft, may be authorized even though it is not
 23 specifically listed in any branch budget bill~~[, statutory budget memorandum, and~~
 24 ~~biennial budget report]~~ enacted for the current biennium, subject to the following
 25 conditions and procedures:

26 (a) Moneys specifically budgeted and appropriated by the General Assembly for
 27 another purpose shall not be reallotted for expenditure on the item; moneys

- 1 utilized shall not jeopardize any existing program and shall not require the use
2 of any current general funds specifically dedicated to existing programs;
- 3 (b) Funds are available for the purchase and the method of financing the purchase
4 will not require an additional appropriation of state funds to acquire the item;
5 and
- 6 (c) The purchasing agency shall, within thirty (30) days after making the
7 purchase, report the purchase to the Capital Projects and Bond Oversight
8 Committee. The report shall include a description of the item, the purpose for
9 which it will be used, the necessity for the purchase, and the amount expended
10 for the purchase from each source of funds used.
- 11 (6) Moneys from any source may be transferred to the allotment account of any capital
12 project authorized by the General Assembly under this section, subject to the
13 following conditions and procedures:
- 14 (a) The total amount transferred shall not exceed fifteen percent (15%) of the
15 amount authorized by the General Assembly unless:
- 16 1. The source of funds is private or federal; or
17 2. An unforeseen decision by a federal or state court or regulatory agency
18 requires the transfer.
- 19 (b) Moneys specifically budgeted and appropriated by the General Assembly for
20 another purpose shall not be allotted or reallocated for expenditure on the
21 capital project.
- 22 (c) Moneys utilized shall not jeopardize any existing program and shall not
23 require the use of any current general funds specifically dedicated to existing
24 programs.
- 25 (d) The relevant entity head, or his designee, shall submit the capital project to the
26 Capital Projects and Bond Oversight Committee at least fourteen (14) days
27 prior to the committee meeting. The submission shall include a written

certification to the committee that the transfer, in excess of fifteen percent (15%) of the amount authorized by the General Assembly, is:

1. Paid for out of private or federal funds; or
2. Required by an unforeseen decision by a federal or state court or regulatory agency; and
3. Not allotted or reallocated from moneys specifically budgeted and appropriated by the General Assembly for another purpose; and
4. Not jeopardizing any existing program and not requiring the use of any current general funds specifically dedicated to existing programs.

(e) If a capital project is financed with road funds, the cost overruns or scope increases shall be paid out of the highway contingency account established pursuant to KRS 45.247.

(7) A capital construction project or a major item of equipment may be authorized even though it is not specifically listed in any branch budget bill, ~~statutory budget memorandum, and biennial budget report,~~ subject to the following conditions and procedures:

(a) Fifty percent (50%) or more of the actual cost shall be funded by federal or private funds, and fifty percent (50%) or less of the actual cost shall be funded by moneys appropriated to the capital construction and equipment purchase contingency account or, if the purpose of the project or equipment is to reduce energy costs, the relevant entity head certifies projected energy cost savings associated with the project or equipment are reasonable and sufficient to produce an aggregate simple payback period, as defined by KRS 56.770, of five (5) years or less;

(b) Moneys specifically budgeted and appropriated by the General Assembly for another purpose shall not be allotted or reallocated for expenditure on the project or major item of equipment; moneys utilized shall not jeopardize any

1 existing program and shall not require the use of any current general funds
2 specifically dedicated to existing programs; and

3 (c) The relevant entity head, or his designee, shall submit the project or major
4 item of equipment to the committee for review as provided by KRS 45.800.

5 (8) The capital construction and equipment purchase contingency fund may be used to
6 advance funds to projects authorized to be financed by bonds, to finance feasibility
7 studies for projects which may be contemplated for future funding, or to audit the
8 capital projects program when authorized by the General Assembly.

9 (9) On or before October 1, each branch of government shall submit to the committee
10 the following information:

11 (a) A complete list and summary description of every capital construction project
12 and major item of equipment not completed as of June 30 of the prior fiscal
13 year; and

14 (b) For each project and major item of equipment, as of July 1, of the current
15 fiscal year:

- 16 1. The project phase;
- 17 2. The project account number, project name, and any other term employed
18 to identify the project or major item of equipment;
- 19 3. The available balance in the project or major item of equipment account,
20 and any sums considered available for that project or major item of
21 equipment;
- 22 4. A statement of the transfers of funds to or from the project or major item
23 of equipment account; and, any account to which transfers from each
24 project or major item of equipment has been made;
- 25 5. The year in which the project or major item of equipment was approved,
26 with specific reference to the legislation by which the project or item
27 was approved;

- 1 6. Total expenditure on the project or major item of equipment;
- 2 7. The current estimated completion cost, including the amount required
- 3 for annual inflation; and
- 4 8. A statement that additional funds for the completion of the project or
- 5 major item of equipment are or are not required; and, if required, why
- 6 sufficient funds for completion are not available; and
- 7 (c) The balance in the appropriated, but unallotted account; and the balance in any
- 8 account, however designated, that contains appropriated, but unallotted funds
- 9 for capital construction.
- 10 (10) When the General Assembly authorizes a capital construction item in the capital
- 11 construction section of a branch budget bill, the entity head charged with executing
- 12 the branch budget shall construct the capital construction item according to the
- 13 requirements set forth in the branch budget bill, ~~statutory budget memorandum,~~
- 14 supporting documentation considered by the General Assembly, and branch budget
- 15 records. The entity head shall not deviate from these requirements with regard to:
- 16 (a) Purpose or location to the extent that the capital construction item no longer
- 17 meets the identified needs; or
- 18 (b) Configuration for reasons other than practical accommodation to the
- 19 construction site or specific program to be accommodated within that capital
- 20 construction item.
- 21 ➔Section 7. KRS 45.780 is amended to read as follows:
- 22 (1) There is created within the capital construction fund the emergency repair,
- 23 maintenance, and replacement account. The account shall consist of moneys
- 24 appropriated to the fund by the General Assembly.
- 25 (2) The Finance and Administration Cabinet may transfer money from the emergency
- 26 repair, maintenance, and replacement account to the allotment account of an
- 27 emergency repair, replacement, or maintenance project, for expenditure thereon,

even though the specific project is not included in any branch budget bill~~[-statutory budget memorandum, and biennial budget report]~~ enacted for that biennium.

Moneys may be transferred from the emergency repair, maintenance, and replacement account to the allotment account of an emergency repair, replacement, or maintenance project only if no other funding source is available.

- (3) The Finance and Administration Cabinet shall report each transfer, including the necessity, purpose, and amount of the transfer, to the Capital Projects and Bond Oversight Committee not later than thirty (30) days after the transfer.

➔Section 8. KRS 48.111 is amended to read as follows:

- (1) The Governor shall include in the executive branch budget recommendation and in the draft branch budget bill for the executive branch submitted to each even-numbered-year regular session of the General Assembly pursuant to KRS 48.110, for the biennium period beginning July 1, 1992, and for each biennium thereafter, a recommended program for rental of any space for which the annual rental cost will exceed two hundred thousand dollars (\$200,000).

- (2) The recommended program for leased space shall include:

(a) A summary description of each specific two hundred thousand dollar (\$200,000) lease project recommended for funding during the biennium; and

(b) For each project:

1. The name of the agency for which space will be leased;
2. The purpose and justification for the lease;
3. Whether the lease contains a purchase option which will be exercised during the biennium pursuant to KRS 56.806(4) and the estimated purchase price;
4. a. Whether the lease contains a lease-purchase which will be completed during the biennium pursuant to KRS 56.806(5) prior to the total amortization, through lease payments, of the fair market

1 value of the leased property as of the time the lessor and the
 2 Commonwealth entered into the lease; and

3 b. The estimated sum of money that will have to be paid in addition
 4 to rent paid to complete the purchase;

5 5. The estimated cost of the lease; and

6 6. The recommended sources of funds.

7 (3) All information required by subsection (2) of this section shall be included in the
 8 executive branch budget recommendation. The branch budget bill for the executive
 9 branch shall contain only the information specified in subparagraphs 1. and 2. of
 10 subsection (2)(b) of this section.

11 (4) Except as provided in subsection (5) of this section, no lease with an annual rental
 12 cost which will exceed two hundred thousand dollars (\$200,000) shall be executed
 13 unless the lease has been identified and included in the branch budget bill. The
 14 branch budget bill for the executive branch shall authorize the expenditure by the
 15 budget unit that will occupy the premises.

16 (5) A lease with an annual rental cost exceeding two hundred thousand dollars
 17 (\$200,000) may be authorized even though it is not specifically listed in the
 18 ~~biennial budget report and~~ branch budget bill, subject to the following conditions
 19 and procedures:

20 (a) A lease is awarded as the result of the consolidation of leases in which case, in
 21 addition to subsection (6) of this section, the provisions of KRS 56.803 and
 22 56.823(2) or of KRS 56.805(2) and 56.823(3) shall apply, as appropriate; or

23 (b) A lease is awarded as the result of an agency occupying substantially less
 24 space than it should, under the standards for space set by the Department for
 25 Facilities Management, in which case, in addition to subsection (6) of this
 26 section, the provisions of KRS 56.803 and 56.823(2) or of KRS 56.805(2) and
 27 56.823(3) shall apply, as appropriate. The space allocated under the new lease

- 1 shall not exceed the space which should be allocated pursuant to the standards
 2 for space; or
- 3 (c) A lease with an annual rental cost of less than two hundred thousand dollars
 4 (\$200,000) is renewed or replaced for an annual rental cost that exceeds two
 5 hundred thousand dollars (\$200,000), but only if that request and subsequent
 6 renewal or replacement lease is:
- 7 1. From the same state agency lessee whose initial lease was under two
 8 hundred thousand dollars (\$200,000);
 - 9 2. For the same or substantially the same square footage as the initial lease
 10 that was under two hundred thousand dollars (\$200,000);
 - 11 3. The result of the competitive leasing process authorized by KRS 56.803;
 - 12 4. For an annual lease payment of less than two hundred and fifty thousand
 13 dollars (\$250,000); and
 - 14 5. Effective only until June 30 of the next even-numbered year unless
 15 authorized in the ~~biennial budget report and~~ branch budget bill; or
- 16 (d) A lease is awarded as the result of an emergency in which case the provisions
 17 of KRS 56.805(3) and (4) and KRS 56.823(5) shall apply; or
- 18 (e) 1. Fifty percent (50%) or more of the actual cost shall be funded by federal
 19 or private funds; and
- 20 2. Money specifically budgeted and appropriated by the General Assembly
 21 for another purpose shall not be allotted or reallocated for expenditure on
 22 the lease. Money utilized shall not jeopardize any existing program and
 23 shall not require the use of current general funds specifically dedicated
 24 to existing programs; and
 - 25 3. The Finance and Administration Cabinet shall comply with the
 26 requirements of subsection (6) of this section.
- 27 (6) (a) No later than five (5) business days after an advertisement for lease proposals

1 pursuant to paragraph (a) or (b) of subsection (5) of this section, the cabinet
2 shall provide the Capital Projects and Bond Oversight Committee with a copy
3 of the advertisement and shall state in writing to the committee that the copy
4 is being provided in compliance with this paragraph.

5 (b) Prior to final authorization of a lease pursuant to paragraph (e) of subsection
6 (5) of this section, the cabinet shall report to the Capital Projects and Bond
7 Oversight Committee:

- 8 1. The name of the agency for which space will be leased;
- 9 2. The purpose and justification for the lease;
- 10 3. The estimated cost of the lease;
- 11 4. The source of funds; and
- 12 5. Whether the requirements of paragraph (e) of subsection (5) of this
13 section have been met.

14 (c) Within thirty (30) days after the report required in paragraph (b) of this
15 subsection has been submitted to the committee, the committee shall conduct
16 its review and decide whether to approve or disapprove the proposed lease
17 authorization. The Legislative Research Commission shall promptly transmit
18 the committee's findings and determinations to the Finance and
19 Administration Cabinet.

20 (d) If the committee disapproves a proposed lease authorization, the secretary of
21 the Finance and Administration Cabinet shall:

- 22 1. Revise the proposed lease authorization to comply with the objection of
23 the committee; or
- 24 2. Cancel the proposed lease authorization; or
- 25 3. Determine to proceed with the proposed lease authorization disapproved
26 by the committee.

27 (e) The decision made by the secretary of the Finance and Administration Cabinet

under paragraph (d) of this subsection shall be communicated to the committee in writing within thirty (30) days of the committee's disapproval.

(f) The Legislative Research Commission shall maintain records of the committee's disapproval of a proposed lease authorization and the cabinet's report of its actions on a disapproved proposed lease authorization. If the committee disapproves a proposed lease authorization, the Legislative Research Commission shall transmit the committee's disapproval and the cabinet's action on the disapproval to the appropriate interim joint committee of the Legislative Research Commission and to the General Assembly when next convened in an even-numbered-year regular session.

(g) If, after committee review, a lease is authorized, the lease shall be awarded pursuant to this section and KRS 43.050 and 56.800 to 56.823 and shall be subsequently reviewed pursuant to the appropriate subsection of KRS 56.823.

➔Section 9. KRS 48.195 is amended to read as follows:

(1) The General Assembly shall set the salaries of the justices and judges of the Court of Justice in the judicial branch budget bill. The Chief Justice shall include in the judicial branch budget recommendation the salaries of the justices and the judges. If the General Assembly concurs with the recommended judicial salaries contained in the judicial branch budget recommendation, then the judicial salaries shall be set in the judicial branch budget bill by incorporating by reference the judicial branch budget recommendation. If the General Assembly sets judicial salaries different from the judicial branch budget recommendation, then the General Assembly shall set forth the salaries of the justices and judges or the incremental changes in the judicial branch budget bill.~~[In every case the judicial salaries shall be set forth in the judicial branch budget memorandum as provided for in KRS 48.300.]~~

(2) The Chief Justice shall include in the judicial branch budget recommendation:

(a) The filing fees and costs, and any changes in the fees and costs, set under KRS

1 23A.200 or 24A.170 during the fiscal biennium immediately preceding the
2 biennium for which the recommendation is submitted; and

3 (b) A statement of whether, and to what extent, the Supreme Court intends to
4 raise or anticipates raising the fees and costs set under KRS 23A.200 or
5 24A.170 during the biennium for which the recommendation is submitted.

6 ➔ Section 10. KRS 48.300 is amended to read as follows:

7 (1) ~~[(a)]~~ The financial plan for each fiscal year as presented in the branch budget
8 recommendation shall be adopted, with any modifications made by the General
9 Assembly, by the passage of a branch budget bill for each branch of government,
10 and any revenue and other acts as necessary.

11 ~~(2)~~~~[(b)]~~ With regard to the Transportation Cabinet, the General Assembly shall:

12 ~~(a)~~~~[1.]~~ Enact, as a separate bill, a branch budget for the Transportation Cabinet;

13 ~~(b)~~~~[2.]~~ Enact, as a separate bill, the biennial highway construction plan, as
14 amended by the General Assembly, including identification of projects from
15 the last four (4) years of the six (6) year road plan that may be moved forward,
16 and the conditions and requirements under which the identified projects may
17 be moved forward; and

18 ~~(c)~~~~[3.]~~ Adopt the last four (4) years of the six (6) year road plan, as amended by
19 the General Assembly, as a joint resolution.

20 ~~[(2)]~~ Prior to the passage of a branch budget bill and any other acts necessary, the
21 appropriations committees of the General Assembly shall prepare a budget
22 memorandum for each branch of government. The budget memorandum shall
23 enumerate the changes made by the appropriations committees to a branch budget
24 recommendation, and shall explain such changes in detail sufficient to convey the
25 intent of the appropriations committees.

26 ~~(3)~~ In administering the provisions of a branch budget bill, a branch head shall interpret
27 provisions of the branch budget bill in conformity with the budget memorandum.]

➔Section 11. KRS 48.500 is amended to read as follows:

(1) Subject to the provisions of this section, when the General Assembly is not in session, all questions that arise as to the meaning of items in a branch budget bill shall be decided by the Finance and Administration Cabinet for the executive branch budget bill and the Transportation Cabinet budget bill, and by the Chief Justice and the Legislative Research Commission for their respective branches of government.

~~(2) [A decision made under subsection (1) of this section shall conform to the appropriate budget memorandum provided for by KRS 48.300.]~~

~~(3)~~ The secretary of the Finance and Administration Cabinet, the Chief Justice, and the Legislative Research Commission shall transmit decisions made under subsection (1) of this section to the Interim Joint Committee on Appropriations and Revenue of the Legislative Research Commission and shall include, in detail, the reasons for such decisions.

~~(3)~~~~(4)~~ If the Interim Joint Committee on Appropriations and Revenue disapproves a decision made under this section, the decision shall not be implemented unless it is:

(a) Revised to comply with the objections of the committee; or

(b) The committee is informed, in writing, in detail, within thirty (30) days of the committee's disapproval, that a determination has been made not to comply with the objections of the committee.

➔Section 12. KRS 48.610 is amended to read as follows:

By June 1 of the preceding fiscal year, each branch of government shall submit to the Finance and Administration Cabinet a schedule of quarterly allotments of appropriations for each budget unit of the branch for the next fiscal year. Allotments shall conform with the appropriations in the enacted branch budget bills~~[,]~~ or other appropriation provisions~~[,]~~ and the budget unit structure in the statutory budget memorandum~~].~~

➔Section 13. KRS 48.620 is amended to read as follows:

(1) Allotments shall be made as provided by the allotment schedule, and may be revised upon the written certification of the Governor, the Chief Justice, and the Legislative Research Commission for their respective branches of government. No revisions of the allotment schedule may provide for an allotment or allotments in excess of the amount appropriated to that budget unit in a branch budget bill, or for expenditure for any other purpose than specified in a branch budget bill~~[-and a budget memorandum provided for by KRS 48.300].~~

(2) Revisions of allotments under this section shall be reported and reviewed as provided by KRS 48.500~~(3)~~~~[(4)]~~.

→Section 14. KRS 48.630 is amended to read as follows:

(1) An unbudgeted appropriation shall not be allotted without prior review and action by the Interim Joint Committee on Appropriations and Revenue as provided for in this section.

(2) Except as otherwise provided in this section, any request for allotment of unbudgeted appropriations from any fund source shall be made in writing by the head of the budget unit and transmitted simultaneously to the state budget director and the Interim Joint Committee on Appropriations and Revenue.

(3) The state budget director may recommend a proposed revision to a specified appropriation in any branch budget bill to the Interim Joint Committee on Appropriations and Revenue by the seventh day of each month.

(4) If the Interim Joint Committee on Appropriations and Revenue fails to review and act upon the proposed revision by the last day of the month, the proposed revision shall be deemed to have been reviewed and favorably acted upon.

(5) The Interim Joint Committee on Appropriations and Revenue shall review the proposed expenditure of the unbudgeted appropriation for conformance with the purposes of the proposed appropriation and the enacted branch budget bill~~[-the statutory budget memorandum]~~, and any other relevant statute, by the last day of

1 each month.

2 (6) If the Interim Joint Committee on Appropriations and Revenue disapproves of the
3 proposed revision of the enacted appropriation, the budget adjustment shall be
4 invalid unless it is:

5 (a) Revised to comply with the objections of the committee; or

6 (b) The committee is informed, in writing, in detail, within thirty (30) days of the
7 committee's disapproval, that a determination has been made not to comply
8 with the objections of the committee.

9 (7) If an emergency unbudgeted appropriation revision is required due to a declared
10 natural disaster, calamity, or impending deficit in an enacted appropriation as
11 certified by the Governor, the state budget director may effect an emergency revised
12 appropriation, with the approval of the secretary of the Finance and Administration
13 Cabinet, and with concurrent notification to the Interim Joint Committee on
14 Appropriations and Revenue of the action and its justification.

15 (8) If a budget unit not listed in any enacted branch budget bill receives unanticipated
16 restricted funds or federal funds, the secretary of the Finance and Administration
17 Cabinet, upon written request from the agency head with appropriate documentation
18 of the amount, source, purpose, necessity, and use of the moneys, may authorize the
19 credit and expenditure of these funds for statutory purposes, upon recommendation
20 of the state budget director and review and action by the Interim Joint Committee
21 on Appropriations and Revenue pursuant to the conditions and procedures
22 prescribed by this section. The secretary shall cause to be established a separate
23 discrete restricted funds or federal funds account, as appropriate, for the receipt and
24 disbursement of these funds and shall establish the maximum sum which may be
25 credited and expended from the authorized account.

26 (9) Institutions of higher education shall be exempt from all conditions and procedures
27 in this section with respect to the authority of the state budget director and the

1 secretary of the Finance and Administration Cabinet to review and approve
 2 unbudgeted restricted funds or federal funds or revisions to appropriations in excess
 3 of any enacted branch budget bill; however, in the event of a revision, an institution
 4 of higher education shall report unbudgeted restricted funds and federal funds to the
 5 state budget director and the Interim Joint Committee on Appropriations and
 6 Revenue.

7 (10) Unbudgeted appropriations for expenditure in the judicial branch budget and the
 8 legislative branch budget shall be exempt from all conditions and procedures in this
 9 section, except that each branch head, or its designee, shall report unbudgeted
 10 restricted funds and federal funds to the Interim Joint Committee on Appropriations
 11 and Revenue and transmit an informational copy to the state budget director.

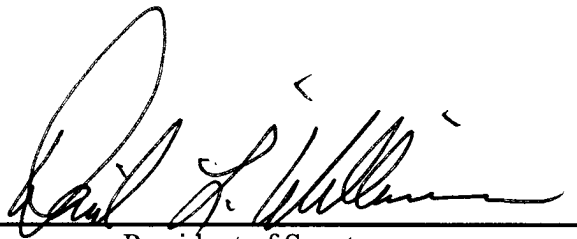
12 (11) The Legislative Research Commission shall maintain records of the findings of the
 13 Interim Joint Committee on Appropriations and Revenue and the determinations
 14 and reports of actions by the state budget director and transmit these records to the
 15 General Assembly when next convened.

16 ➔ Section 15. KRS 64.056 is amended to read as follows:

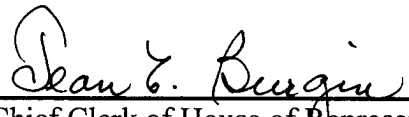
17 Compensation of clerks of the Circuit Court shall be set in accordance with the judicial
 18 personnel system. The Chief Justice shall include anticipated salary increases for clerks of
 19 the Circuit Court in the judicial branch budget recommendation. The increases may be
 20 limited by the General Assembly in the judicial branch budget bill~~[or in the judicial~~
 21 ~~branch budget memorandum as provided in KRS 48.300].~~



Speaker-House of Representatives



President of Senate

Attest: 

Chief Clerk of House of Representatives

Approved 

Governor

Date 3-16-11